

Docket No. 56290-1521
Customer No. 30734



1AP4 Re PCT/PTO 2/8 DEC 2005
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : **ATTENTION APPLICATIONS BRANCH**
Mario A. VILLENA, et al. :
Application No. 10/536,691 : International Application No.: PCT/US04/28218
Filed: May 27, 2005 : International Application Filing Date: August 31, 2004

For: COMPUTERIZED SYSTEMS FOR AUTOMATIC EVALUATION OF REAL ESTATE HAVING
VARIOUS OPTIONAL SPECIALIZED COMMUNICATIONS INTERFACES

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Mail Stop – Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants petition the Commissioner of Patents and Trademarks under the provisions of 37 C.F.R. § 1.102(d) with the appropriate fee set forth under 37 C.F.R. § 1.17(h). Applicants believe that all claims are directed to a single invention, but agrees to make an election, without traverse, if the Office determines that all claims are not directed to a single invention.

Applicants also states that a pre-examination search was made by the United States Patent and Trademark Office (USPTO), and that the pre-examination search was directed to the invention as claimed in the application for which special status is now requested. The classification of the subject matter include G06F 17/60 (IPC(7)) and 705/1 (US). The technical fields searched included classes/subclasses 705/1 (US). A copy of the search report, as well as a copy of each reference deemed most closely related to the subject matter encompassed by the claims, is attached.

A detailed discussion of each of the references how the claimed subject matter is patentable over the references follows:

MOST RELEVANT REFERENCES

Information of Realtor Workstation, 2000 (“Realtor”): According to the “screen shots” and explanation provided by the USPTO Search Report, the Realtor reference teaches a database of property-related information that when accessed can enable a user to perform a number of property-related queries. A careful review of the various screenshots provided shows that Realtor: (A) a login page (pg. 2); (B) a general utility selection page (pg. 6); (C) a variety of virtual tools apparently configured to make queries (pgs. 8-20); and (D) a variety of display pages for displaying information of each property satisfying a query (pgs. 22-27) and display pages for displaying information on individual properties (pgs. 28-63).

There is no information – no disclosure, teaching or even a remote suggestion within the provided screen shots – that Realtor discloses the use of any Automated Valuation Methodology (AVM) derived property values. In fact, there is no disclosure, teaching or even a remote suggestion that Realtor includes any form of Property valuation information, automated or manual.

To the contrary, the only information provided remotely related to property value is “list price.” See, e.g., pgs. 27 and 29. Accordingly, Realtor does not teach or suggest each and every claim limitation of independent claims 1, 27, 31 and 34, an issue that the Search report graciously acknowledges. See, Section V.2, “Citations and Explanations”, page 1.

While the Search Report (Section V.2) apparently asserts that AVM derived data “*is considered to be non-functional descriptive material that does not distinguish (define) over the applied prior art*”, Applicants assert that AVM-derived data is a substantially different from list prices. For example, as explained in the Detailed Description, an AVM-derived value for a particular property can, unlike a mere list price, define the difference between how much a property costs and the true bargain the property represents to a prospective investor on the

relevant market. Accordingly, AVM-related data can and does provide capabilities to systems not possible whatsoever to systems having only list price. Therefore in the context of the present claims, the recited AVM-related data is by definition functional as, when embedded in data structures and computer programs, it imparts functionality.

United States Publication No. 2001/0039506 to Robbins ("Robbins") discloses a process for automated real estate valuation wherein a database for enhanced records of properties in a particular territory is used to determine the value of a "subject property". See, Abstract. While the Search Report is quite correct in that Robbins discloses that "*[a]utomated valuation models (AVM) have been developed for use by appraisers*" (see, paragraph 6), the Search Report does not assert or suggest that any of the previously known AVM technologies or the one described by Robbins' Detailed Description are to be used to populate a database. Robbins discloses that databases can be used to derive AVM values (see, e.g., Abstract, par. [0082] and par. [0109]), but nowhere has the Search Report even asserted that Robbins AVMs technology might be used to populate a property database that contains records on substantially every residential property for sale in a defined geographic with AVM produced values.

DISCUSSION

As discussed above, the Search Report does not show where Realtor discloses, teaches or even a remote suggests the use of any Automated Valuation Methodology (AVM) to derived property values. Accordingly, Realtor does not teach or suggest an apparatus for identifying properties of interest that includes an input device configured to receive parameters relating to real property and a property database that contains records on a majority of residential properties offered for sale in a defined geographic region [with each record including] an identifying field identifying a specific property and an automated valuation field containing an AVM produced

value of the identified property, as recited in independent claim 1 and similarly recited in the other independent claims.

Similarly, the Search Report does not show where Robbins discloses, teaches or even a remote suggests a property database that contains records on a majority of residential properties offered for sale in a defined geographic region [with each record including] an identifying field identifying a specific property and an automated valuation field containing an AVM produced value of the identified property, as recited in independent claim 1 and similarly recited in the other independent claims.

The Search Report has not established a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, the prior art references must teach or suggest all the claim limitations, there must be some motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the reference teachings and there must be a reasonable likelihood of success to combine the references. See MPEP §2143, for example. As discussed above, the Search Report has not shown that the applied art of record teaches or suggests all the known claim limitations.

Further, the Search Report has not provided an appropriate motivation in the references themselves, or demonstrated an appropriate motivation from the knowledge generally available to one of ordinary skill in the art, to modify or combine the reference teachings. While the Search Report does assert that “*it would have been obvious to one of ordinary skill in the art ... to modify Realtor as taught by Robbins ... to automate the manual process of property valuation*” (citing In re Venner, 120 USPQ 193 (CCPA 1958)), Applicants respectfully point out that the particular recited claims of the present application are not directed to merely automating a known manual process within the meaning of In re Venner, but to creating new systems and methods never before seen or done manually or otherwise. The inventors’ new systems and

methods are in part due to their innovations in creating a new AVM technology and finding novel ways to exploit that technology. As the Search Report has made no showing that the presently claimed AVM-database systems or methods were ever performed manually, In re Venner cannot apply.

Further, as discussed in the present Application, previously known AVM technology is very expensive, and the available AVM providers are limited to a very few large corporations. The downside of having such limited pool of AVM providers keeps the price extremely high and the availability extremely limited. For example, one web-based service will provide an AVM valuation of a specific residential property for \$25. While this may be appropriate if one desires to look at a limited number of properties or determine a mortgage limit for a specified property, its utility as a market analysis tool to the small investor is practically nil as performing a comparative analysis of properties in even a small geographic can cost tens of thousands of dollars.

The inventors of the disclosed methods and systems have created an entirely new approach to empower buyers and sellers of real estate property. **Against industry trends and traditions, the inventors have invested greatly in their own AVM technology, and applied it in unconventional and novel ways. Accordingly, the inventors have a unique standing in the relevant industry with the ability to perform massive numbers of AVM valuations at negligible costs.** As a result, the inventors have created novel applications that can take advantage of the strengths of AVM technology while limiting their known liabilities. For example, by employing AVM technology not against various specific properties, but against practically every property in a given geographical region, entirely new approaches for investing can be formulated with negligible costs and before any substantial money is ever invested by a given consumer.

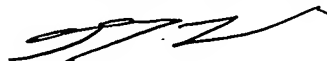
Applicants also wish to point out that a product based on the Inventors' claimed technology has been recognized for its "Innovative Technology" by the Inventors' industry peers. See, Attached Inman News announcement. Such peer recognition is evidence of the utility and novelty of the claimed methods and systems, and should weigh in as a secondary consideration of nonobviousness. See, e.g., Graham v. John Deere Co., 383 U.S. at 17-18.

Accordingly, Applicants assert that the independent claims are directed to patentable subject matter. The dependent claims are directed to patentable subject matter by virtue of their dependency as well as for the additional features they recite. Accordingly, Applicants respectfully request that this Petition be granted and the examination of this Application be expedited.

Please charge the amount of \$130.00 to Deposit Account 50-2036. Any deficiency or overpayment should be charged or credited to Deposit Account No. 50-2036.

Respectfully submitted,

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Attachments:

Copy PCT Search Report
Copies of Two Most Relevant References
Copy of pages from Inman website